

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

HEMLOCK SEMICONDUCTOR
CORPORATION, *et al.*,

Plaintiffs,

v.

KYOCERA CORPORATION,

Defendant.

Case No. 15-CV-11236 (TLL) (PTM)

Honorable Thomas L. Ludington

KYOCERA CORPORATION,

Counterclaimant,

v.

HEMLOCK SEMICONDUCTOR
CORPORATION, *et al.*,

Counterdefendants.

**DEFENDANT KYOCERA CORPORATION'S
MOTION TO EXPEDITE BRIEFING SCHEDULE AND
CONSIDERATION OF ITS MOTION TO COMPEL DISCOVERY**

Defendant Kyocera Corporation (“Kyocera”) respectfully moves the Court to expedite the briefing schedule and consideration of its Motion to Compel Discovery.

1. Kyocera served the discovery requests at issue in its Motion to Compel on July 23, 2015 and initially moved to compel responses on October 8, 2015 (Doc. No. 45.)

2. While Kyocera’s prior motion was pending, the Court issued an order dismissing certain counterclaims, and denied Kyocera’s motion to clarify that Order. (*See* Doc. Nos. 61 and 75.) Kyocera then withdrew its October 8, 2015 Motion to Compel because a number of the requests at issue in that motion were mooted by the Court’s Order.

3. The Court consolidated this action with a related action (Doc. No. 82) and the parties filed amended pleadings (Doc. Nos. 85, 89, 101) that were finalized by Hemlock’s May 2, 2016 answer to Kyocera’s amended counterclaims (Doc. No. 101).

4. On May 10, 2016—after the pleadings were finalized and the remaining issues in the case were settled—Kyocera withdrew approximately half of its requests for production, narrowed the scope of a number of other requests, and

asked Hemlock to comply with the requests. (*See* AvE Decl.¹ Ex. A.) Hemlock responded in writing a week later, and largely refused to comply. (*See* AvE Decl. Ex. B.) The parties met and conferred telephonically on May 20, 2016 and Hemlock did not change its position. (*See* AvE Decl. ¶ 6)

5. Kyocera filed a Motion to Compel on May 31, 2016, concurrently with this motion. Kyocera's Motion to Compel seeks information directly relevant to its counterclaims and defenses.

6. As explained above, Kyocera has been diligent.

7. Under the Court's Scheduling Order, the discovery cutoff in this case is set for August 15, 2016—less than three months away. (Doc. No. 94.) Fact depositions will soon commence, and have been noticed throughout June and July. Kyocera's expert disclosures are currently due by July 13, 2016 (*id.*), although the parties have reached an agreement to adjust the expert deadlines by a few weeks such that Hemlock's expert disclosures would be due by July 8 and Kyocera's by August 12.

8. The information sought by Kyocera's Motion is vital to Kyocera's deposition of Hemlock's witnesses, expert reports, and to its defenses and counterclaims in this case. Given the pending expert and discovery deadlines, it is

¹ Declaration of Christian Andreu-von Euw in support of the concurrently filed Motion to Compel.

imperative that Hemlock timely respond to Kyocera's Motion to Compel Discovery and that the Court resolve this discovery dispute.

9. Under Local Rule 7.1, briefing on Kyocera's Motion to Compel Discovery would not conclude until June 21, 2016. This is less than one month before Kyocera's expert disclosures are currently due, and less than two months before the discovery cutoff in this case.

10. The Court will not be able to resolve this matter until after the briefing is concluded. It is important that the parties obtain a resolution of this matter long before the discovery cutoff so that they can serve additional, appropriate discovery, with adequate time for responses, if necessary. If the Court grants Kyocera's Motion to Compel, Hemlock will have an additional 10 days to produce the requested documents. This brings the parties even closer to the expert and discovery deadlines.

11. Hemlock will not be prejudiced by expediting the briefing schedule. Kyocera and Hemlock have been discussing the discovery requests at issue for the past several months.

12. Pursuant to Local Rule 7.1(a), Kyocera sought concurrence from Hemlock on this Motion on May 27, 2016 and despite reasonable efforts was unable to conduct a conference. Kyocera offered to hold a telephone conference to discuss its request with Hemlock but, on May 31, 2016, Hemlock notified Kyocera

that it does not concur in this Motion and did not indicate a desire for further discussions. Given the time sensitive nature of this motion, Kyocera could not delay filing any longer.

13. Kyocera respectfully requests that the Court enter an order requiring Hemlock to respond to Kyocera's motion by June 7, 2016 and Kyocera to file a reply by June 14, 2016.

Dated: May 31, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 31, 2016, I caused a copy of the foregoing to be filed electronically and that the document is available for viewing and downloading from the ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

By: /s/ Christian Andreu-von Euw
Christian Andreu-von Euw

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**DEFENDANT KYOCERA CORPORATION'S
BRIEF IN SUPPORT OF ITS MOTION TO EXPEDITE BRIEFING
SCHEDULE AND CONSIDERATION OF ITS
MOTION TO COMPEL DISCOVERY**

For the reasons and upon the authority stated in the accompanying Motion, Defendant Kyocera Corporation (“Kyocera”) respectfully requests that this Court grant Kyocera’s Motion and enter an order expediting the briefing schedule and consideration of Kyocera’s Motion to Compel Discovery.

Dated: May 31, 2016

Respectfully submitted,

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